

### **REMARKS**

Applicants and Applicants' representative thank the Examiner for the courteous telephone discussions with Applicants' representative on October 12 and October 13, 2006.

To expedite the issuance of this application, the Applicants have cancelled claims 31 and 58-69 without prejudice, and reserve the right to file continuations and or divisional applications directed to any of the subject matter canceled or withdrawn from this application.

Claims 27 and 37 through 57 are currently pending.

#### **Rejections**

##### **I. 35 U.S.C. § 103**

The Examiner has maintained a rejection to the claims under 35 U.S.C. § 103 as being obvious over U.S. Patent No. 5,446,157 (the "157 Patent"); U.S. Patent No. 5,326,692 by Brinkley et al. (the "692 Patent"); and JP Abstract JP 11092479 to Hirotsuke, T. (the "JP Abstract"). In making this rejection, the Examiner has noted that this rejection would be obviated by the submission of a declaration containing the unexpected results previously described in Applicant's response to the Official Action dated March 27, 2006.

#### **Declaration**

Submitted herewith is a Declaration by Applicant Donal O'Shea, containing the material from the "Unexpected Results" section of the Response to the Office Action mailed on July 27, 2006.

The Declaration includes experiments, results, and analysis which illustrate the unexpected properties the compounds recited by pending claims 27 and 37 through 57 possess relative to certain compounds in the prior art. Specifically, compounds recited by the pending claims in which R<sup>2</sup> and R<sup>5</sup> are a heavy atom or an alkyl, cyclic, or heterocyclic moiety each substituted with at least one heavy atom, unexpectedly result in more efficacious Photo Dynamic Therapy relative to the compounds of the prior art, in which R<sup>2</sup> and R<sup>5</sup> are hydrogen, by increasing the population of T1 and increasing the generation of ground state oxygen while limiting the non-radiative internal back-conversion from T1 to the ground state S0 and the inhibition of the photosensitizer triplet to ground state oxygen energy transfer. The compounds covered by pending claims and the unexpected properties they possess neither are disclosed nor suggested in the prior art.

**CONCLUSION**

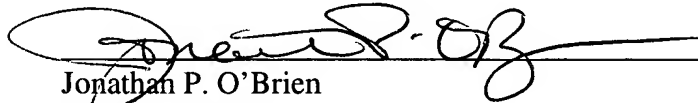
Applicants believe that this application is in condition for allowance and respectfully request that the Examiner reconsider and withdraw the obviousness rejection and allow claims 27 and 37-58. If the instant case is not deemed allowable by the Examiner, Applicants request a **telephonic interview** with the Examiner to discuss and resolve any outstanding issues.

Respectfully submitted,

DONAL O'SHEA ET AL.

By: Miller, Canfield, Paddock and Stone, P.L.C.

12/15/06  
Date

  
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